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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/695,930

10/29/2003

Walter Brieden

05409/100J061-US2

7047

7278 7590 03/27/2006

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EXAMINER

MELLER, MICHAEL V

ART UNIT

PAPER NUMBER

1655

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 8 and 9, drawn to a process for the preparation of a compound using chemical means by using an optically active tartaric acid, classified in class 435, subclass various.
- II. Claims 8 and 9, drawn to a process for the preparation of a compound using biotechnological means by using a hydrolase in the presence of an acylating agent, classified in class 530, subclass various.
- III. Claims 14 and 15, drawn to two compounds, classified in class 514, subclass various.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. The methods differ in that the modes of operation are different since the methods of obtaining the compound are materially

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distinct from one another. Also, the methods are not capable of use together since the compounds are made by either process but **not** both at the same time.

Inventions (I and II) and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially distinct process such as evidenced by the claims themselves wherein the compounds can be made by chemical means or biotechnological means, see claim 8.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

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or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 571-272-0967. The examiner can normally be reached on Monday thru Thursday: 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael V. Meller
Primary Examiner
Art Unit 1655

MVM